

## AN ACT

ENTITLED, An Act to revise confidentiality provisions regarding Department of Social Services record information concerning abuse or neglect resulting in the fatality or near fatality of a child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 26-8A-13 be amended to read as follows:

26-8A-13. All investigative case records and files relating to reports of child abuse or neglect are confidential, and no disclosure of any such records, files, or other information may be made except as authorized in chapter 26-7A or this chapter. Any person who knowingly violates the confidential nature of the records, files, or information is guilty of a Class 1 misdemeanor. The Department of Social Services may release records, files, or other information to the following parties upon the receipt by the department of a request showing that it is necessary for the parties to have such information in the performance of official functions relating to child abuse or neglect:

- (1) The attorney general, the state's attorneys, law enforcement agencies, protective services workers, and judges of the courts investigating reports of known or suspected child abuse or neglect;
- (2) The attorney or guardian ad litem of the child who is the subject of the information;
- (3) Public officials or their authorized representatives who require the information in connection with the discharge of official duties;
- (4) Institutions and agencies that have legal responsibility or authorization to care for, treat, or supervise a child who is the subject of the information or report;
- (5) An adoptive parent of the child who is the subject of the information or report and a licensed child welfare agency, a tribal agency which the Department of Social Services has an agreement with to provide child welfare agency services which would otherwise require licensure by the department or any private child welfare agency whose licensure has been waived pursuant to § 26-6-9, for screening of applicants;

- (6) A state, regional, or national registry of child abuse and neglect cases and courts of record of other states;
- (7) A validly appointed and registered child protection team under § 26-8A-17;
- (8) A physician who is caring for a child whom the physician reasonably suspects may be abused or neglected;
- (9) State hearing examiners and any person who is the subject of the report for purposes directly related to review under § 26-8A-11; and
- (10) A person eligible to submit an adoptive home study report under § 25-6-9.1 or 26-4-15.

However, the information may only be released for the purpose of screening applicants.

Information received by an authorized receiving party shall be held confidential by the receiving party. However, the court may order the release of the information or any portion of it necessary for determination of an issue before the court.

However, the Department of Social Services may release information and findings to the media regarding the abuse or neglect of a child that resulted in a fatality or near fatality of the child if the release of the information has been approved by the prosecutor who has commenced or who has authority to commence legal action, and, if such disclosure has been authorized by the court and is not contrary to the best interests of the child, the child's siblings, or other children in the household. The information to be released shall relate to the acts of child abuse or neglect that caused the fatality or near fatality of the child. However, the identity of the child may never be released. For the purpose of this chapter, near fatality means an act that, as certified by a physician, places the child in serious or critical condition.

An Act to revise confidentiality provisions regarding Department of Social Services record information concerning abuse or neglect resulting in the fatality or near fatality of a child.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1025

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1025  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_ ,

19\_\_ at \_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 19\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 19\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State